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7  
8 UNITED STATES DISTRICT COURT  
9 DISTRICT OF NEVADA

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10  
11 UNITED STATES OF AMERICA,  
12 Plaintiff,  
13 vs.  
14 GABRIEL MESA,  
15 Defendant.

2:13-CR-418-APG-VCF

**MOTION TO REOPEN DETENTION**  
**HEARING**  
(Hearing Requested)

16 COMES NOW the defendant, GABRIEL MESA, by and through his attorney of record,  
17 Monique Kirtley, Assistant Federal Public Defender, and moves this Court to reopen his detention  
18 hearing.

19 This request is based on the Points and Authorities attached hereto.

20 DATED this 21st day of March, 2014.

21 RENE VALLADARES  
Federal Public Defender

22 /s/ Monique Kirtley  
23 By: \_\_\_\_\_  
24 MONIQUE KIRTLEY  
Assistant Federal Public Defender

**POINTS AND AUTHORITIES**

The Defendant Mr. Gabriel Mesa (“Mr. Mesa”), was indicted on November 19, 2013. In his indictment Mr. Mesa was charged with four counts of Possession of a Firearm by a Convicted Felon, in violation of 18 U.S.C. § 922(g)(1) and one count of Possession of a Firearm Without a Removed Serial Number, in violation of 26 U.S.C. § 5842. The indictment charges that in October, November and December of 2012, Mr. Mesa on separate occasions, knowingly possessed various firearms.

On November 22, 2013, Mr. Mesa was brought before a Magistrate-Judge Foley for an initial appearance. Immediately following the initial appearance, the court held a detention hearing. The Magistrate-Judge ordered Mr. Mesa detained due to a serious risk of non-appearance and danger to the community. The court determined, by preponderance of the evidence, that no condition or combination of conditions would reasonably assure the appearance of Mr. Mesa and by clear and convincing evidence, that no condition or combination of conditions which will assure the safety of other persons or the community. Mr. Mesa now seeks to reopen his detention hearing.

In regards to the finding that Mr. Mesa is a serious risk of flight, Mr Mesa submits that he has strong family ties to this community. Mr. Mesa has lived in the Las Vegas community for thirty-eight years. Mr. Mesa has lived at his present address for five years. Mr. Mesa’s wife, and children reside in Las Vegas, Nevada. Since Mr. Mesa’s detention hearing new facts have developed which would support his release on conditions.

First, the owner of Mario’s West Side Market, Mario Berlanga, Jr. has offered Mr. Mesa full time employment at Mario’s West Side Market. *See* Exhibit A: Letter from Mario Berlanga, Jr. Second, Mr. Mesa’s son has been accepted into the United States Marine Corps. In July of this year he will be leaving for boot camp and would like the opportunity to spend time with his father prior to leaving. *See* Exhibit B: Letter from Anthony Joseph Mesa. Third, and more importantly, since Mr. Mesa’s detention, the family home is now facing foreclosure. *See* Exhibit C: Letter from Christina Berlanga. Mr. Mesa’s wife, Christina, is unable to afford to pay the house mortgage by herself. If the Court would grant Mr. Mesa’s release, he would immediately begin working at Mario’s West Side Market. The income he earns from Mario’s will make a difference in the family being able to keep their home. Christina has further informed undersigned counsel that she is willing

1 to serve as a third party custodian, if the Court was willing to release Mr. Mesa. Christina and Mr.  
2 Mesa have been together for over twenty-three years. She realizes the importance and obligations  
3 of being a third party custodian. She, as well as Mr. Mesa, are taking this case very seriously and  
4 she has no problem in informing pretrial services, and the Court, if Mr. Mesa fails to abide by any  
5 release conditions that this Court finds appropriate.

6 In regards to finding that Mr. Mesa is a danger to the community, the court noted that Mr.  
7 Mesa has a 1993 conviction for relating to murder with a deadly weapon. Mr. Mesa re-submits the  
8 fact that the 1993 conviction was for **attempted** murder with a deadly weapon. The Court relied on  
9 this conviction for one of its basis for detention. However, this conviction as noted by the court  
10 occurred in 1993. That is over twenty-one years ago. Mr. Mesa has not engaged in any other violent  
11 activity since 1994. Mr. Mesa firmly believes that there are conditions that this Court can impose  
12 which will guarantee the safety of others and the community.

13 Mr. Mesa is willing to submit to any strict terms or conditions set by this Court to guarantee  
14 his future presence and the safety of the community. Mr. Mesa is willing to submit to, alcohol  
15 testing, drug testing, electronic monitoring, curfew, and house arrest. Mr. Mesa's wife is willing  
16 to be a third party custodian on his behalf.

#### 17 CONCLUSION

18 Due to the above, Mr. Mesa respectfully request that this Court reopen his detention hearing  
19 and release him on his personal recognizance, or on bond, subject to any combination of conditions  
20 this Court deems appropriate.

21 DATED this 21st day of March, 2014.

22 Respectfully submitted,

23 RENE VALLADARES  
24 Federal Public Defender

25 /s/ Monique Kirtley

26 By: \_\_\_\_\_  
27 MONIQUE KIRTLEY  
28 Assistant Federal Public Defender

**CERTIFICATE OF ELECTRONIC SERVICE**

The undersigned hereby certifies that she is an employee of the Law Offices of the Federal Public Defender for the District of Nevada and is a person of such age and discretion as to be competent to serve papers.

That on March 21, 2014, she served an electronic copy of the above and foregoing **MOTION TO REOPEN DETENTION HEARING**, (Hearing Requested, by electronic service (ECF) to the person named below:

DANIEL G. BOGDEN  
United States Attorney  
CRISTINA D. SILVA  
Assistant United States Attorney  
333 Las Vegas Blvd. So., 5<sup>th</sup> Floor  
Las Vegas, Nevada 89101

/s/ Blanca Lenzi  
Employee of the Federal Public Defender